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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,253	04/15/2004	Moon Hwan Kim	04-262	8125

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EXAMINER	
MUI, CHRISTINE T	
ART UNIT	**PAPER NUMBER**
1743	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/825,253	KIM ET AL.	
	Examiner	Art Unit	
	Christine T. Mui	1709	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 April 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *15 April 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. Figures 1, 2, 3a and 3b should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

1. The disclosure is objected to because of the following informalities:

2. On page 1, line 15, in the instance where it reads "rapidly developed, many" probably should read "rapidly developing, many"

3. On page 1, line 16, in the instance where it reads "convenience of use for" probably should read "convenience of the use for"

4. On page 2, line 6, in the instance where it reads "eliminates the needs" probably should read "eliminated the needs"

5. On page 9, line 13, in the instance where it reads "FIG. 5," probably should read "FIGS. 4 and 5".

Appropriate correction is required.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 5,366,609 to White (herein referred "White"), and further in view of USP 6,413,213 to Essenpreis (herein referred "Essenpreis").

5. Regarding claim 1, the reference White discloses the claimed invention except for an upper receiving hole for an upper measurement strip. White discloses a biosensing meter that is enabled to receive a sample strip that includes a sample well with an analyte reactant therein and electrodes in contact therewith (see abstract). The biosensing meter (meter body) includes a display (display unit) and slot for receiving a disposable sample strip (lower receiving hole) on the bottom of the device and a pluggable ROM key (upper receiving hole) that mates with an electrical receptacle within the meter (see abstract; column 4, lines 20-31 and 40-41; Figure 1). Essenpreis discloses a system for subscription monitoring of a medically significant characteristic of a bodily fluid that includes a biosensing meter (meter body) with a strip receptacle (upper receiving hole), a ROM receptacle (lower receiving hole) and a display (display unit) (see abstract; column 3, lines 58-61; Figure 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the upper and lower strip receptacles of White and Essenpreis in one meter body with a ROM key device within the body such that the biosensing device is able to receive test strips from

the upper and lower slots or ports of the body to increase its versatility with the user so that a patient does not have to flip the device around for easy reading.

6. Regarding claim 2, the reference White and Essenpreis disclose the claimed invention except for the meter bodies with two receiving holes for test strips. White discloses contacts that enable a potential on the electrodes to be fed to a sense amplifier (lower connectors) and the ROM key with grooves that provide insulating guides that assure that electrical contacts (upper connectors) with the meter. The meter that White discloses also includes A/D converters (measurement unit) that are applied to a bus, which provides communication between modules contained within the biosensing meter. A microprocessor (micro-controller unit) provides overall control of the operation of the biosensing meter in combination from data read from the ROM key (see column 4, lines 48-51, 63-68 and column 5, lines 1-5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the upper and lower receiving holes for test strips of White and Essenpreis with connectors and a measuring unit and microprocessor unit to ease the act of reading the display unit so that the patient does not have to turn the meter body in different directions accommodating to the point of sampling on the body.

7. Regarding claim 3, the reference White and Essenpreis disclose the claimed invention except for and upper and lower receiving holes for the test strips. White discloses a biosensing meter with a slot for receiving a disposable sample strip on the lower portion of the meter body (see column 4, lines 28-31; Figure 1) and Essenpreis discloses a biosensing meter with a strip receptacle on the upper portion of the meter

body (see column 3, lines 58-60; Figure 1). White discloses that within the device, initially when the microprocessor determines that a sample strip is properly inserted and that its excitation and sense electrodes and exhibit proper electrode continuities. Next, the microprocessor causes excitation voltage source to apply an excitation voltage level to the excitation electrode (see column 6, lines 23-26 and 35-39). It is interpreted by the examiner that when the microprocessor determines when a sample strip is inserted and determines proper electrode continuities a signal is transmitted to the key to apply a voltage while not transmitting a signal to the test strip that has been inserted. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a meter with two receiving holes for test strips while transmitting a signal to one connector in the device and not the other so that the device is only reading one port or slot at a time as to not confuse or short circuit the biosensing device.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over White as applied to claim 1 above.

9. Regarding claim 4, the reference White discloses the claimed invention except for displaying an error message when measuring strips are both receiving in connection with the upper and lower connectors. It would have been obvious to one having ordinary skill at the time the invention was made to provide an erroneous message on the display of a blood glucose meter when both measuring strips are in connection with the microprocessor for reading a sample so that the microprocessor and micro-

controller do not get confused as to which strip it is reading as the meter is only designed to measure the blood glucose meter of a single sample.

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over White and Essenpreis as applied to claim 1 above, and further in view of US Publication No. 2003/0204313 to Ou-Yang et al (herein referred "Ou-Yang").

11. Regarding claim 5, the references White and Essenpreis disclose the claimed invention except for where the display unit is a liquid crystal display. Ou-Yang discloses a biosensing meter applicable to measure glucose with a display unit with a LCD driver (see page 2, [0020]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the display unit be a LCD display so that in any light or at any angle the patient can easily read the smooth display without any problems with glare or visibility and read the display even if the surface is covered with moisture.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christine T. Mui whose telephone number is (571) 270-3243. The examiner can normally be reached on Monday-Friday 8-5; Alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Griffin can be reached on (571) 272-1447. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CTM

WALTER D. GRIFFIN
SUPERVISORY PATENT EXAMINER